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June 21, 2018

Honorable Vince Chhabria  
United States District Court, Northern District of California

Re: MDL 2843: *In re: Facebook, Inc., Consumer Privacy User Profile Litigation*,  
Case No. 18-md-02843-VC

To the Honorable Vince Chhabria,

Pursuant to the Court's Pretrial Order No.1, I respectfully submit this application to be lead counsel in the above-referenced case.<sup>1</sup>

**Professional Experience with MDLs and Subject Matter of this Litigation** - I have forty years of complex litigation experience that encompasses the different types of experience I believe is needed to lead this case: a) MDLs including trying them to jury verdict; b) class actions including the class certification process; c) technology litigation; d) multi-national litigation and discovery; e) damages modeling; and, f) familiarity with the Stored Communications Act. Also, I have represented both plaintiffs and defendants over the course of my career.

Examples of MDLs I have litigated and tried to conclusion as lead counsel are: *In re Lower Lake Erie Iron Ore Antitrust Litigation*; *In re Corrugated Container Antitrust Litigation*; and, *In re Disposable Contact Lens Litigation*. In all, I have tried over a dozen complex cases to verdict including these MDLs.

Having a computer science background, a major portion of my experience has also substantively involved computer, communications, data storage and access, and software application technologies. I have also litigated and tried several patent, trade secret and other disputes involving these technologies. Examples include Apple's QuickTime™ movie and voice recognition technologies, multiple cases for Wang Laboratories' and Sun Microsystems' data storage and access technologies, Power Analytics's real time data collection, storage and security software applications. In sum, I have been immersed in the technologies that are importantly at issue in this case.

In addition, the majority of these litigations have required sophisticated damages analyses including both factual development and expert economic analyses. This case will also require such analysis.<sup>2</sup> Together with members of my firm I have been involved in numerous Stored Communications

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<sup>1</sup> My experience with MDLs and complex litigation is further detailed in my resume, attached as Ex. A. A list of counsel who support my appointment as lead counsel is attached as Ex. B.

<sup>2</sup> One of my partners who will be assisting on this case is co-editor of a leading treatise on damages, i.e., KRISTOPHER A. BOUSHIE, CHRISTOPHER H. SPADEA & MARTIN F. CUNNIFF, *CALCULATING AND PROVING DAMAGES* (Law Journal Press 2011-16).

Act matters based on our prior representation of Cable & Wireless USA which operated the largest Internet backbone in the world for years.

**Familiarity with the Claims Before the Court** – I am lead counsel in the *Redmond et al.* case which has been consolidated in the NDCA, representing the largest class action filed since it includes both U.S. and U.K. class members.

I am familiar with the claims before the Court based on the comprehensive investigation my team, supervised by me, has undertaken over the last three months. This includes: (a) a factual investigation by private investigators retained in London, England of the facts giving rise to the claims in the complaint, including interviews of key participants and potential witnesses, (b) establishing working relationships with U.K.-based investigative journalists; c) associating with a U.K. law firm for purposes of exploring discovery tools available in the U.K.; d) meeting with former Federal Trade Commission (“FTC”) officials who were involved in the FTC’s inquiry which resulted in the highly relevant 2011 Consent Order agreed to by Facebook; e) conducting research regarding the legal and factual circumstances surrounding the case including testimony, Stored Communications Act decisions, and other related claims and legal issues raised by this case; and, e) personally supervising the drafting of the complaint.

Rather than simply relying on media coverage, I have been personally involved in directing this investigation, reflecting the international dimensions of the alleged offenses and the harms which they have caused. Because of this investigation, I am privy to a large amount of information that has not been reported in the news media. Interviews with the former FTC officials have provided information about the FTC Consent Order against Facebook directly related to this action.

To evaluate claims and investigate the foreign-located facts, in March 2018 we associated with the law firm of McCue & Partners in London, England as well as with Richard Fields, an American lawyer with experience in London and multi-jurisdictional litigation. McCue & Partners are experts in gathering evidence in complex cases and recognized as one of the leading civil liberties litigation firms in the U.K.<sup>3</sup> Our investigators have identified witnesses, found new sources of information, and identified key documents highly relevant to the claims in this consolidated case. We have also investigated the potential claims of foreign users whose personal information was improperly obtained by Cambridge Analytica. The *Redmond* complaint includes class members which, according to Facebook statistics, consists of 1,079,031 affected users in the U.K. Mike Schroepfer, *An Update on Our Plans to Restrict Data Access on Facebook*, <https://newsroom.fb.com/news/2018/04/restricting-data-access/> (last visited June 20, 2018).

**Present and Future Ability to Commit to Time-Consuming Litigation** – I currently practice law full time and do not have any teaching, business, or other obligations that would impede my ability to commit fully and completely to acting as lead counsel in litigating this case to its conclusion.

**Ability to Work Cooperatively with Others** – Throughout my career, I have a demonstrated and consistent ability to work cooperatively with others in several contexts. This includes dozens of

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<sup>3</sup> Dr. Jason McCue is an internationally recognized expert in victims-led actions and complex litigation as is his partner, Matthew Jury. Dr. McCue was awarded the Law Society of England and Wales’ Solicitor of the Year award for 2009-2010 for his work on human rights in Africa and Mr. Jury was short-listed for Solicitor of the Year in 2014.

multi-party cases, class actions and MDLs, all of which required the ability to work with various groups of lawyers. Since 2008, I have served on the Board of the International Institute for Conflict Prevention and Resolution (“CPR”) and currently serve as the Chairman of CPR’s International Committee. I served as managing partner of Howrey LLP, which had nearly 600 litigators and seventeen offices worldwide. This role required the ability to work cooperatively with lawyers of all ages, nationally and internationally, as well as with other law firms and constituencies. I have comfortably and successfully worked as part of leadership on multiple class action and MDL cases where cross-law firm teamwork was essential to efficient management.

**Resources Available to Prosecute this Litigation in a Timely Manner** – If appointed lead counsel, I have sufficient resources to conduct the litigation in a timely manner, including resources already in place in London where many of the key events took place and where witnesses are located. I have sufficient staff and financial resources to fully prosecute this litigation. Within my firm, I have up to fifteen experienced litigators in three offices (Washington, D.C., Berkeley, CA and Los Angeles, CA), and a full-time PhD economist, with thirty years’ experience in the fact evaluation of damages.

**Ability to Maintain Reasonable Fees and Expenses** – I have long been an active and recognized proponent of the efficient management of complex litigation, including the development, training and deployment of young attorneys in litigation; the use of advanced technology to reduce the costs associated with discovery, factual development, and knowledge management; and the focused management of resources in litigation. Particularly directed to these issues, I am the co-author of the book *Constructing Core Competencies*, published by the ABA in 2006, and author of the article *The Power of Focus*.<sup>4</sup> In addition, I was recognized as a “innovator” in the cover article about my firm’s advanced programs entitled *Think Different* in *The American Lawyer*, August 2008. I was also honored as a “visionary” twice by the *Legal Times* in 2008 and 2009 for applying forward-thinking solutions to complex disputes.<sup>5</sup>

In sum, I am experienced and prepared to lead this litigation and would be honored to serve as Lead or Co-Lead Counsel in this important litigation.

Respectfully submitted,



Robert F. Ruyak

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<sup>4</sup> ROBERT F. RUYAK, *THE POWER OF FOCUS* (Inside the Minds: Leading Lawyers series, Aspatore Books, Inc. 2002).

<sup>5</sup> The Blog of the Legal Times, October 24, 2009.